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South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

Vol. 19

May 21, 2002

No. 20

MAJOR ISSUES FROM THE 2002 LEGISLATIVE SESSION

These summaries highlight some of the major bills considered by the General Assembly this year. Please note that many issues which are included in this document are addressed in more than one bill. We have highlighted bills which have made the most progress towards passage.

This document will be revised and expanded. Major legislation is summarized here in a format that is intended to be more accessible than a simple reading of the bills, joint resolutions, and acts. This report, which highlights legislative activity through *Friday, May 17, 2002*, is a guide to, not a substitute for, the full text of the legislation summarized.

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APPROPRIATIONS

THE 2002-03 GENERAL APPROPRIATION BILL (H.4878)

The House and the Senate have approved differing plans to address the difficult 2002-2003 fiscal year. Major differences between the two plans include, but are not limited to: differences in revenue sources; differences in funding for Medicaid; differences in funding for the State Department of Education (including differing recommendations for funding the First Steps program); differences in funding the rate increase in employee health insurance; and differences in plans for distributing lottery funds. Neither plan includes a pay increase for state employees. Also, both the House and the Senate plan reduce the amount credited to the Personal Property Tax Relief Fund from twenty million dollars to zero. Other highlights from **the House-passed budget plan** include:

- NON-RECURRING REVENUE is generated from various sources, including but not limited to:
 - Redirecting interest from various state agency restricted accounts, generating approximately \$50.3 million;
 - Establishment of a tax amnesty program, which it is estimated will generate around \$5 million;
 - Reducing the state's contribution to the employee retirement plan, and transferring various other agency funds to the General Fund, generating a total of approximately \$73 million; over \$29 million of these funds will be used to cover increases in state employee health insurance costs;
 - Transferring \$100 million from the unrestricted taxable proceeds portion of the principal of the Healthcare Tobacco Settlement Trust Fund; Out of these funds, the Silvercard prescription drug program is to be funded at \$23.2 million, \$4 million goes to the Department of Mental Health, and \$71.5 million is to be expended for Medicaid match and to reimburse nursing homes for franchise fees and provide up to \$7.5 million needed to continue the nursing home rate increases made possible by the franchise fees. *In addition, this year's joint resolution imposing an annual franchise fee on nursing homes is repealed.*
- LOTTERY - The House approved provisions authorizing participation in *multi-state lottery games*. The House specified that the \$216.2 million in lottery revenue must be considered non-recurring funds, to be expended as follows (figures are rounded):

○ Education Accountability Act Increase	\$23.9 million
○ K-5 Reading, Math, Science, and Social Studies Program	36.5 million
○ School Buses	35.0 million
○ ETV Digitalization	18.5 million

NO PART II'S IN GENERAL APPROPRIATION BILL (H.4766)

The House approved H.4766, a House Resolution which expresses the sense of the House that no permanent law, i.e., Part II's, should be included in the General Appropriation Bill for fiscal year 2002-2003, when the bill is under consideration in the House.

STATUS: Approved by the House.

TRANSFER OF MONIES FROM EXTENDED CARE MAINTENANCE FUND (H.5003)

The House approved and sent to the Senate H.5003. This joint resolution directs the State Treasurer to transfer the sum of sixty-one million dollars from the Extended Care Maintenance Fund (funds set aside for long-term maintenance of the Barnwell low-level nuclear waste disposal facility) to the State general fund to offset fiscal year 2001-2002 mid-year sequestrations as imposed by the State Budget and Control Board. The resolution further provides that if the Extended Care Maintenance Fund is insufficient to meet its obligations due to this transfer, the State is solely responsible for repaying an amount to restore the transferred funds.

STATUS: H.5003 was approved by the House and is pending in the Senate Finance Committee.

STATE CAPITAL IMPROVEMENT BONDS (H.3765)

The House approved and sent to the Senate H.3765. This legislation requires that a bill authorizing the issuance of state capital improvement bonds must have a certificate attached from the Office of State Budget, certifying that certain conditions are met regarding the dollar amount of bond authorizations in the bill and regarding the debt service for the bonds. The bill requires this certificate before any bill or joint resolution authorizing the issuance of state general obligation bonds may be reported by the House Ways and Means Committee, given third reading in the House, reported by the Senate Finance Committee, given third reading in the Senate, and reported from conference or free conference committee.

STATUS: H.3765 was approved by the House and is pending consideration in the Senate Finance Committee.

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assignment for deduction of membership dues in a labor union; (4) eliminates Section 5 which clarified the private right of action for right to work claims.

STATUS: A Conference Committee has been appointed to address House and Senate differences on H.3142.

STATE GENERAL OBLIGATION ECONOMIC DEVELOPMENT BOND ACT (S.1200)

This bill increases from five percent to five and one-half percent of the general revenues of the State for the fiscal year next preceding (with specified exclusions), the limitation on general obligation debt imposed by the State Constitution. The additional debt service capacity available at any time as a consequence of the increase is available only for the repayment of general obligation bonds issued to provide infrastructure for economic development within the State.

STATUS: S.1200 has been approved by the House and Senate and has been signed by the Governor.

PORT EXPANSION ON DANIEL ISLAND (S.926)

This joint resolution, approved by both the House and the Senate, requires the State Ports Authority to begin environmental impact studies and other required actions in regard to the permitting process to locate new terminal facilities on the west bank of the Cooper River at locations it determines appropriate and with a capacity in conformance with available land at the proposed location or locations. The resolution provides that if the locations identified are on real property not owned by the State Ports Authority (the Authority), the Authority is authorized to begin the process of acquiring such property. The resolution requires that upon completion of the permitting process, the Authority shall report to the General Assembly concerning the new terminal facilities, including a request for any state funding necessary to complete the projects and the form such funding is requested to take. The resolution requires that the Authority provide the General Assembly with a summary of criteria developed for use in delineating the needs, requirements, and specifications of port expansion. The resolution provides that the permit application may not exclude or prejudice unreasonably the acceptance of any site. The resolution directs appropriate state agencies to explore opportunities for federal funding of the infrastructure enhancements for port expansion on the western side of the Cooper River. The resolution also provides that the State Budget and Control Board shall take appropriate steps to provide indemnification from personal liability

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Reporting by Ballot Measure Committees: Both House and Senate versions create and define "ballot measure committees" and makes them subject to reporting and disclosure requirements. This definition includes a person or persons who receives contributions or makes independent expenditure totaling \$2,500 or more during an election cycle for the purpose of influencing the outcome of a ballot measure. This provision clarifies the status of ballot measure committees. The status of such committees is unclear under current law as a result of the 1999 *Legacy Alliance* case regarding the video poker ballot measure. The Senate version adds the requirement that candidates and committees must maintain an account of the occupation of each person making a contribution in addition to the other requirements. The House version eliminates the current requirement that ballot measure committees place the name and address of the committee on printed matter. The Senate version leaves this existing requirement intact.

Penalty Enhancements: Both the House and Senate versions eliminate the \$500 cap on civil penalties for failure to file disclosure reports. Currently, a person who violates this provision must pay a mandatory \$100 penalty if the report is not filed within 5 days of due date plus \$10 per day after notice is sent to the delinquent filer but only up to a \$500 cap. Both the House and Senate versions create a new penalty for campaign practice violations and certain reporting violations. The legislation adds a fine of up to 500% of the amount of contributions and anything of value that should have been reported to the current law which provides for a penalty of not less than \$5,000, or imprisonment for not more than 1 year, or both.

State Ethics Commission Requests: Both House and Senate versions provide for several technical changes to the Ethics Act, most of which have been requested by the State Ethics Commission. The Senate version adds provisions relative to the State Ethics Commission and the House and Senate Ethics Committees relating to the moratorium on filing a complaint during the fifty-day period before an election. The amendment allows a person to petition the court of common pleas during this period alleging the violations complained of and praying for appropriate relief by way of a mandamus or injunction. Sanctions are provided for those who file frivolous lawsuits.

Contribution Limits: Current law provides contribution limits of \$3,500 for statewide office and \$1,000 for any other office. The Senate version provides that within an election cycle, a statewide candidate or committee may not accept contributions over five thousand dollars and non-statewide candidates may not accept contributions of two thousand five hundred dollars (\$2,500). Current law provides a candidate may not accept contributions from political parties in excess of \$50,000 for statewide office and \$5,000 for any other office. The Senate version provides that a candidate may not accept contributions from political parties in excess of \$100,000 for statewide office or \$50,000 for non-statewide office. The House version does not revise either contribution limit.

Reporting Campaign Contributions: Current law requires candidates or committees to maintain a list during the period before an election commencing at the beginning

CHILD ABUSE/ DOMESTIC VIOLENCE

CHILD ABUSE AND NEGLECT REPORTING REQUIREMENTS FOR MEMBERS OF THE CLERGY (H.5048)

The House approved H.5048 and sent the bill to the Senate where it has been referred to the Judiciary Committee. This legislation adds members of the clergy to the statutory list of professions and persons who must report suspected instances of child abuse and neglect. The legislation provides that a clergy member must report information received relating to child abuse and neglect except when the information is received during a communication that is protected by the clergy and penitent privilege as recognized by state statute.

STATUS: H.5048 passed the House on May 1, 2002, and was sent to the Senate where it has been referred to the Judiciary Committee.

CHILD ABUSE AND NEGLECT REPORTS, STEPHANIE'S LAW (S.1208)

The Senate passed S.1208, Stephanie's Law, and sent the bill to the House where it has been referred to the Judiciary Committee. This bill establishes more rigorous reporting and record keeping guidelines for child abuse and neglect cases in South Carolina. This bill provides that when the Department of Social Services receives a report of suspected child abuse or neglect, DSS must determine whether previous reports have been made regarding the same child or the same subject of the report. The bill further provides that if DSS does not conduct an investigation as a result of information received, DSS must make a record of the report and allow that information to be used by it and law enforcement for purposes of assessing risk and safety if additional contacts are made concerning the child, the family, or the subject of the report.

This bill also requires that DSS retain records of all reports and place each report in a specified category (suspected, indicated, or unfounded) based on the department investigation. The bill provides that reports that are classified as unfounded must be retained by DSS for up to five years. Once these records are classified, the bill limits access to them and specifically removes them from Freedom of Information Act inquiry. The bill also ends the practice of purging certain records from the central registry, allowing Department access to all reports at all times.

Finally, the bill precludes the registry from containing any report that the Department classifies as unfounded.

STATUS: S.1208 passed the Senate on April 18, 2002, and was sent to the House where it has been referred to the Judiciary Committee.

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An individual who violates the general criminal domestic violence offense is guilty of the offense of criminal domestic violence of a high and aggravated nature when one of the following occurs: (1) the person intentionally commits an assault and battery which involves the use of deadly weapon or results in serious bodily injury to the victim; or (2) the person intentionally commits an assault, with or without an accompanying battery, which would reasonably cause a person to fear imminent serious bodily injury or death. A person who violates this section is guilty of a felony. The court may suspend part of the sentence if the offender completes a counseling program.

When a person reports a criminal domestic violence violation at a later time and law enforcement was not notified at the time the alleged violation occurred, law enforcement must complete an investigation of the allegations. A charge may be brought only by presenting the results of the investigation conducted by law enforcement and any other evidence for review by a judge who may issue an arrest warrant upon a showing of probable cause.

A person may not be considered for pre-trial intervention if he is charged with a criminal domestic violence offense if the offender has been previously convicted of a criminal domestic violence violation or a similar offense in another jurisdiction.

The Committee amended the definition of "household member" under criminal domestic violence and protection from domestic abuse provisions so as to eliminate from the definition persons related by consanguinity or affinity within the second degree.

The bill provides that following a first offense conviction as a youthful offender the defendant may apply to have his record expunged after 15 years.

The bill also includes the provisions of H.4989 which provides for procedures for South Carolina Court Administration to receive notice of a solicitor's intent to seek the death penalty and procedures for maintaining records and statistics regarding death penalty cases.

STATUS: H.3056 passed the House on May 2, 2002, and was sent to the Senate where it has been referred to the Judiciary Committee.

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the South Carolina Conservation Bank. The portion of the biennial fee remaining after production costs are met is to be deposited in the Trust Fund. However, in a fiscal year when the General Assembly in the annual general appropriations act provides less appropriations than what was provided for the previous year to at least one-half of the state agencies or departments or in any year when the Budget and Control Board orders across the board cuts to state agencies and departments, no further transfer of deed recording fees or other appropriated funds, state or local, may be credited to the trust fund for the fiscal year or balance of the fiscal year. Under such circumstances, existing balances in the trust fund may be used as provided.

The Bank is established and authorized to: (1) award grants to eligible trust fund recipients for the purchase of interests in land, so long as the grants advance the purposes of the Bank and meet the specified criteria; (2) make loans to eligible trust fund recipients for the purchase of interests in land, at no interest or at an interest rate determined by the board, and under terms determined by the board, so long as the loans advance the purposes of the Bank and meet the specified criteria; (3) apply for and receive additional funding for the trust fund from federal, private, and other sources, to be used as provided; (4) receive charitable contributions and donations to the trust fund, to be used as provided; and (5) receive contributions to the trust fund in satisfaction of any public or private obligation for environmental mitigation or habitat conservation, whether such obligation arises out of law, equity, contract, regulation, administrative proceeding, or judicial proceeding. Such contributions must be used as provided; (6) exercise its discretion in determining what portion of trust funds shall be expended, awarded, or loaned in any particular year, and what portion of trust funds shall remain in the trust fund from one fiscal year to the next. Funds within the trust fund shall be invested or deposited into interest-bearing instruments or accounts, with the interest accruing and credited to the fund.

An eligible trust fund recipient may apply for a grant or loan from the trust fund to acquire a specific interest in land identified in its application. An application must not be submitted to the board without the written consent of the owner of the interest in land identified in the application. Contiguous landowners and other interested parties may submit in writing to the board their views in support of or in opposition to the application. The board must hold a public hearing on the application at which the eligible trust fund recipient, contiguous landowners, and other interested parties shall be heard. Interested parties include representatives of the municipality, county, and public or private utilities in the area wherein the property is located. The board shall conduct a public hearing on an application before awarding a grant or loan pursuant to the application.

Before applying for trust funds for the purchase of an interest in land, the eligible trust fund recipient receiving the funds must notify the owner of the land that is the subject of the trust fund grant or loan of the following in writing: (1) that interests in land purchased with trust funds result in a permanent conveyance of such interests in land from the landowner to the eligible trust fund recipient or its

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management, as regulated by the laws of this State, upon lands for which interests in lands are obtained pursuant to this chapter. These and other traditional and compatible activities may be conducted, where appropriate, upon lands preserved with trust funds.

The bill requires the Bank submit an annual report containing specified data, to the Governor, Lieutenant Governor, and General Assembly. The Board must also perform a bi-annual review of the plight of land loss by small landowners and holders of heirs property. The results of this review must be submitted to the General Assembly.

The South Carolina Conservation Bank Act provisions are repealed effective July 1, 2013, unless reenacted or otherwise extended by the General Assembly. However, the South Carolina Conservation Bank established by this act may continue to operate as if it were not repealed until the South Carolina Conservation Bank Trust Fund is exhausted or July 1, 2016, whichever first occurs. Any balance in that trust fund on July 1, 2016, reverts to the general fund of the State.

STATUS: S.297 passed the General Assembly and was signed into law by the Governor on April 10, 2002 (Act 200).

HISTORIC REHABILITATION INCENTIVES ACT (H.3163)

The General Assembly passed H.3163, the South Carolina Historic Rehabilitation Incentives Act, and the legislation was signed into law by the Governor on May 1. The legislation provides state income tax credits for certain expenditures incurred in the rehabilitation of certified historic structures located in this State. The legislation provides a state income tax credit equal to ten percent of rehabilitation expenses incurred for a taxpayer who is eligible for the federal income tax credit allowed for the rehabilitation of historic structures for profit-making ventures. For taxpayers who do not qualify for the federal income tax credit and who are rehabilitating a certified historic residential structure, the legislation provides a state income tax credit equal to twenty-five percent of rehabilitation expenses incurred.

STATUS: The General Assembly passed H.3163 and the bill was signed into law by the Governor on May 1, 2002 (Act 229).

THE COURTS

GUARDIANS AD LITEM (S.322)

On April 24, 2002, a Conference Committee was appointed to address differences in the House and Senate versions of S.322. The bill provides requirements and

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significant of which relates to the duty of the GAL to make recommendations to the court.

The House Version allows the GAL to make recommendations regarding the child's best interest including a final recommendation as to the custody of the child. Essentially, the House Version allows the GAL to be a complete advocate for the child.

The Senate Version allows the GAL to make any recommendations regarding the child's best interest *except for the final recommendation of custody unless requested by the court for specific reasons set forth on the record*. The Senate Version also allows the GAL to be an advocate for the child except to make the final determination of custody, unless requested by the court for specific reasons.

The House Version allows the GAL to submit the final report 15 days prior to the merits hearing. The Senate Version allows the GAL to submit the final report 30 days prior to the merits hearing but in no event later than 10 days.

GAL Fees

There are some significant differences in House and Senate Versions regarding fees that may be charged by GALs.

The House Version requires the court to set the rate of compensation at the time of appointment of the GAL. It also requires the GAL to submit *periodic* itemized billings to the parties and their attorneys.

The Senate Version requires the court to set the rate of compensation at the time of appointment of the GAL, *including an initial authorization of a fee based on the facts of the case*. It provides that the GAL must not charge a fee exceeding the initial authorization at the time of appointment. The Senate Version provides that if the GAL determines it is necessary to exceed the initial authorized fee, the GAL must provide notice to the parties and obtain the judge's written authorization to increase the fee. The Senate Version requires the GAL to submit *monthly* itemized billings to the parties and their attorneys.

Both the House and Senate Versions require the court to consider the ability of the parties to pay fees and costs at the time of appointment.

Disclosure

There is one significant difference between House and Senate Versions regarding disclosure of relationships of the GAL to litigants and attorneys.

The House Version requires the GAL to provide written notice, at the time of appointment, to each party of the nature, duration, and extent of any relationship the GAL or any member of the GAL's immediate family residing in the GAL's household has (1) *with any party or*, (2) *with any attorney only if the GAL or his*

Finally, this bill gives the family court discretion to determine when a hearing on a legal name change petition is necessary.

STATUS: H.3906 passed the House on April 18, 2002, and was sent to the Senate where it has been referred to the Judiciary Committee.

CRIME AND PUNISHMENT

CHILD ABUSE AND NEGLECT PROVISIONS

(See CHILD ABUSE/ DOMESTIC VIOLENCE section of this document)

DEATH PENALTY STATISTICS (H.4989)

The House approved and sent to the Senate H.4989, a bill pertaining to information on death penalty cases maintained by the Office of Court Administration. This bill provides that when a solicitor gives required notice to a defense attorney of the intent to seek the death penalty, the solicitor also must provide a copy of his notice of intent to seek the death penalty to the court administrator of this State and to the Commission on Indigent Defense. The solicitor's notice to the court administrator also must include the date the notice is made, the alleged crime, the date the alleged crime occurred, the county in which the alleged crime occurred, demographic information about the victim, and the person or persons charged with the crime, including their age, race, sex, and ethnic background. The court administrator must use data provided by the solicitors to maintain records and statistics regarding the basic information. The Office of Court Administration must compile, collate, index, and maintain a file of the required information and make the file available to the general public during the normal business hours of the offices of Court Administration. The legislation provides a procedure for challenging and correcting information in the file. The lack of notice given to the court administrator will never serve as a defense for the defendant of a capital case.

STATUS: H.4989 passed the House on April 26 and was sent to the Senate where it has been referred to the Judiciary Committee. The provisions of H.4989 were also included in H.3056, the Domestic Violence Prevention Act, which passed the House on May 2, 2002, was sent to the Senate, and referred to the Judiciary Committee.

DOMESTIC VIOLENCE

(See CHILD ABUSE/ DOMESTIC VIOLENCE section of this document)

The Senate version of the bill added a provision regarding racial profiling which would expire July 1, 2006. Additionally, the Senate version of the bill would equalize the penalties for crack cocaine and powder cocaine by lowering the penalties for crack cocaine to mirror the penalties of powder cocaine.

STATUS: A conference committee has been appointed (February 27, 2002) to address the differences of the House and Senate on H.3141.

EDUCATION

CHARTER SCHOOLS (S.12)

The Senate approved **S.12**, a bill which amends current law regarding the organization, operation, and governance of charter schools in South Carolina. Highlights of the bill as passed by the Senate are as follows:

- **Findings/Intent**

The legislation includes a statement that *"because the state no longer sanctions a system of segregated schools, it is the intent of the General Assembly that creation of this chapter encourages cultural diversity, educational improvement, and academic excellence. Further, it is not the intent of the General Assembly to create a segregated school system but to continue to promote educational improvement and excellence in South Carolina."*

- **Fingerprinting/Noncertified Teachers**

The legislation amends the definition of "noncertified teacher" for purposes of charter schools. "Noncertified teacher" is currently defined as an individual considered appropriately qualified for the subject matter taught, and who has been approved by the charter committee of the school. The legislation strikes the requirement for approval by the school's charter committee, and adds a requirement for completion of at least one year of study at an accredited college or university and a requirement for state fingerprint review.

- **Teacher Qualifications for Teaching Core Subjects**

The legislation provides that in either a new or converted charter school, a teacher teaching in the core academic areas of English/language arts, math, science, or social studies must be certified in those areas, or possess a baccalaureate or graduate degree in the subject he or she is hired to teach.

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and racial composition of the applicant pool in determining whether the applicant or charter school is operating in a non-discriminatory manner. A finding by the local school district board that the applicant or charter school is operating in a racially discriminatory manner may justify the denial of a charter school application or the revocation of a charter school. A finding by the local school district board that the applicant is not operating in a racially discriminating manner shall justify approval of the charter without regard to the percentage requirement if the application is acceptable in all other aspects.

▪ **Conditional Authorization of Charter**

Current law provides that a local school board "may" conditionally authorize a charter school before the applicant has secured its space, equipment, facilities, and personnel if the applicant **indicates** such authority is necessary for it to meet the relevant statutory requirements. This legislation changes this language so as to provide that a local school board "shall" conditionally authorize a charter school if the application is acceptable in all other aspects but the applicant has not secured its space, equipment, facilities, or personnel and the applicant **verifies that** such authority is necessary for it to acquire the space, equipment, facilities, or personnel needed to meet the relevant statutory requirements.

▪ **Duration of Charter Contract**

Current law provides that a charter may be approved or renewed for a period not to exceed three school years. This legislation provides that a charter may be approved or renewed for a period of **five** school years, and provided that the charter may be revoked or not renewed pursuant to specified statutory provisions.

▪ **Out of District Transfers to Charter Schools**

The legislation provides that a child who resides in a school district other than the one where a charter school is located may attend a charter school outside his district of residence; however, the receiving charter school shall have authority to grant or deny permission for the student to attend according to the terms of the charter after in-district children have been given priority in enrollment. The legislation also provides that the out-of-district enrollment shall not exceed twenty percent of the total enrollment of the charter school without the approval of the sponsoring district board of trustees. The legislation also provides that the district sending children to the charter school must be notified immediately of the transferring students, and out-of-district students must be considered based on the order in which their applications are received. The legislation further provides that if the twenty percent out-of-district enrollment is from one school district, then the sending district must

Endowment. The Endowment would be funded annually by appropriations from the South Carolina Education Lottery Account and managed by the State Treasurer, subject to awards from the Endowment. South Carolina's senior research universities may apply for awards from the Endowment as provided in the bill. The Board is responsible for recommending annually to the Budget and Control Board for approval a schedule by which applications for funding are received and awarded on a competitive basis; for awarding of matching funds as provided in the bill; and for oversight and operation of the Endowment.

The House included creation of and provisions for the Research Centers of Excellence as a Part IB proviso in the House version of H.4878, the 2002-2003 budget plan. Provisions for the Research Centers are also included in H.3307.

STATUS: H.4622 was approved by the House and is pending consideration in the Senate Judiciary Committee. The House and the Senate have approved differing versions of H.3307 and H.4878, and both of these bills are currently being negotiated in conference committees.

HOMELAND SECURITY

OMNIBUS COUNTER-TERRORISM AND HOMELAND DEFENSE ACT (4416)

The House approved and sent to the Senate H.4416, the South Carolina Omnibus Counter-Terrorism and Homeland Defense Act of 2002.

The legislation affords state law enforcement authorities with new means of investigating potential terrorist threats.

Interception of Wire, Oral and Electronic Communications

The bill authorizes a judge of competent jurisdiction to order the interception of wire, oral or electronic communications by the State Law Enforcement Division (SLED) upon application by the Attorney General or Solicitors if such communication will provide evidence of the commission of specified violent crimes, of any offense related to terrorism or any offense related to bombs, destructive devices and weapons of mass destruction as provided by the bill.

Other investigative or law enforcement officers of governmental law enforcement agencies, government personnel and individuals operating under a government contract may assist SLED in conducting interceptions under the direct supervision of SLED.

Revisions to Weapons of Mass Destruction Statutes

The bill revises current provisions pertaining to weapons of mass destruction, so as to make it unlawful for a person to cause sickness and disease by using a weapon of mass destruction or destructive device.

The bill provides that it is unlawful to threaten or attempt to threaten to cause damage, injury, sickness, disease or death or to cause damage or destruction to a building or other property by means of a destructive device.

The bill provides that it is unlawful for a person to knowingly harm or destroy a plot, land, a stream, pond, lake or body of water, a crop, plant or livestock, wildlife or fish by means of the direct or indirect use of a biological, chemical or nuclear weapon of mass destruction with the intent to cause economic or physical harm to a person or damage to property.

The bill provides that it is unlawful for a person to commit an offense using a biological attack, destructive device, weapon of mass destruction, biological or bacteriological weapon if committed incident to or to facilitate an act of terrorism or international terrorism.

The bill specifies those individuals who are exempt from certain restrictions including military and law enforcement officers engaged in lawful activity and persons engaged in lawful research, accepted agricultural, pest and weed control practices.

The bill requires notification by law enforcement of encounters of weapons of mass destruction to public health officials.

The bill provides that restitution be ordered for certain violations.

Freedom of Information Act Provisions

The legislation clarifies that a public agency may prohibit disclosure of law enforcement records that are also not subject to disclosure under federal law.

The legislation authorizes a public agency to prohibit disclosure of information relating to security plans and devices of public bodies except for amounts expended for the adoption, implementation, or installation of such security plans and devices.

The legislation authorizes DHEC to regulate the disclosure of certain chemical and industrial storage information subject to federal law and federal regulations to prevent the release of certain information that would increase the risk of acts of terrorism. The director of DHEC must notify the Attorney General and identify such information and promulgate regulations to regulate access to such information.

The legislation contains numerous provisions related to a declared state of emergency.

Free Admission to State Parks for Emergency Workers on September Eleventh

The legislation allows any law enforcement official, firefighter and emergency medical technician to enter a state park without charge on September 11 of each year upon showing proof of employment with a badge, certification card or other valid credentials.

South Carolina 9/11 Scholarship Program

The legislation creates the South Carolina 9/11 Scholarship Program and will provide a scholarship to any South Carolina resident whose parent or legal guardian who was also a South Carolina resident and died as a result of the terrorist attacks on September 11, 2001, in New York City, the Pentagon and Pennsylvania. This scholarship includes the cost of tuition at any state public institution of higher learning for up to 5 years of full-time undergraduate study.

State Day of Remembrance

The legislation designates September 11 of each year as a State Day of Remembrance.

Moment of Silence

The legislation revises the current mandatory moment of silence requirement by requiring all school districts to establish in every school under its jurisdiction the daily observance of one minute of silence for voluntary prayer, meditation, or other silent activity. During the one-minute period of silence, the teacher responsible for each classroom shall ensure that all pupils remain seated and silent and make no distracting display to the end that each pupil, in the exercise of his individual choice, may pray, meditate, or engage in any other silent activity which does not interfere with, distract, or impede other pupils in the like exercise of individual choice.

Display of National Mottos and Other Meaningful Documents

The principal in each public elementary and secondary school in this State shall display on an appropriately framed background with minimum dimensions of eleven inches by fourteen inches, the following national mottos of the United States of America in a prominent place inside the school under his supervision: 'In God We Trust' and 'E Pluribus Unum'. Each public school teacher shall display in his or her classroom the motto 'In God We Trust'. The mottos 'In God We Trust' and 'E Pluribus Unum' shall also be displayed in a prominent place inside the admissions office of each public institution of higher learning.

Under the bill, an object containing the words of the Ten Commandments may be displayed on State property along with other documents of historical significance that have formed and influenced the United States legal or governmental system. The display of an object containing the words of the Ten Commandments must be

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the premiums for health insurance coverage in South Carolina. The task force shall make a final report with recommendations to the General Assembly no later than January 1, 2005, at which time the task force is dissolved. Until the task force is so dissolved, no mandated health benefit may be imposed on a health insurance issuer doing business in this State beyond those required as of January 1, 2002.

STATUS: H.4583 passed the House on March 21, 2002, and was sent to the Senate where it has been amended and ordered to third reading with notice of general amendments.

MOTORIST INSURANCE DATABASE PROGRAM ACT (H.5105)

The House approved and sent to the Senate H.5105, the Motorist Insurance Database Program Act. The legislation creates the Motorist Insurance Database Program for the purpose of establishing a database to use when verifying compliance with the State's requirements for automobile insurance or other motor vehicle financial security. The legislation provides that the Department of Public Safety shall convene a working group with a membership as specified in the bill for the purpose of facilitating the implementation of the program, assisting in development of regulations, and coordinating a testing phase, and necessary changes identified in this testing phase, as prescribed by the working group. The Motor Vehicles Division in the Department of Public Safety shall develop, in a manner prescribed by the department, a system to allow the transmission of data from insurance companies to the division. The department, with input from the Department of Insurance, shall promulgate regulations for administering and enforcing this provision. The regulations shall specify the requirements that are necessary and appropriate for commercial lines of insurance which shall be developed with input by the Department of Insurance. The division, for a fee prescribed and promulgated by regulation, shall make available to insurers by subscription a monthly electronic list of newly-licensed drivers. This list must not be used for marketing, solicitation, or another purpose not specifically enumerated. It may only be used to provide an additional method to reduce the uninsured motorist population. This monthly list of newly-licensed drivers must show the: name and gender of the driver, address, date of birth, South Carolina driver's license number, and, if available, insurance information provided in the liability certification portion of the application for a driver's license. This information may be used for: (1) determining if a newly-licensed driver is insured; (2) assigning a newly-licensed driver to the proper automobile insurance policy for rating purposes; and (3) ordering a motor vehicle report on a newly-licensed driver.

If the database indicates that a motor vehicle is not insured or if the division receives notification as prescribed by regulation that a vehicle may not be insured, the division shall notify the owner of the motor vehicle that he has forty-five days to provide the division with one of the following, or the owner's license plates will be subject to suspension: (1) proof of complying coverage or of self-insurance; or (2) proof of exemption from the financial security requirements. The bill authorizes disclosure, for a fee, of an individual's reported database information upon request

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Accountability Act \$7.84 million; K-12 technology \$5 million; School-based pilot programs \$1 million; School buses \$15 million; Tuition grants \$1.2 million; State Aid for Libraries \$1.5 million; ETV Digitalization \$13 million. The Senate plan provides further for appropriation of \$32.8 million in 2001-2002 net lottery proceeds in excess of \$67.2 million. The Senate plan appropriates \$7 million in 2001-2002 and 2002-2003 unclaimed prize money for school buses.

STATUS: Differing versions of H.3307 have been approved by the House and the Senate. A conference committee is working to negotiate these differences. Also, differing versions of a lottery plan as included in H.4878 are currently being considered by the House-Senate budget conference committee.

GAMBLING CRUISE PROHIBITION ACT (H.4387)

The House approved and sent to the Senate H.4387, the Gambling Cruise Prohibition Act. The legislation prohibits gambling activities on so-called "cruises to nowhere." The legislation provides that it is unlawful for a person to use any gambling device or engage in gambling aboard a vessel within the jurisdiction of this State. The legislation provides that it is unlawful for a person to use any gambling device or engage in gambling aboard a vessel that is on a voyage if: (a) the voyage begins and ends in this State; and (b) during the voyage the vessel does not make an intervening stop. The legislation provides that it is unlawful for a person to own, keep, operate, manage, or maintain any gambling device on a vessel within the jurisdiction of this State unless: (a) the vessel is engaged in a voyage that begins and ends in this State and makes an intervening stop; and (b) any gambling that occurs aboard the vessel occurs only outside the jurisdictional waters of this State. The legislation also provides that it is unlawful for a person to own, keep, operate, manage, or maintain a vessel that transports persons to another vessel for the purpose of engaging in a "cruise to nowhere" style gambling cruise. Under the bill, an 'intervening stop' occurs when a vessel departs the jurisdictional waters of this State and sails into United States or international waters, and between the time the vessel departs the jurisdictional waters of this State and the time it returns to the jurisdictional waters of this State, the vessel docks at a port of call in another state or possession of the United States or foreign country and remains in that port for a period of time sufficient to allow passengers the opportunity to disembark the vessel for sightseeing, shopping, or other tourism-related activities at that port. A person who engages in gambling that is unlawful under this act must be assessed a civil penalty of not more than one hundred dollars for each violation, with an aggregate total not to exceed one thousand dollars for a twenty-four hour period. An individual who violates provisions pertaining to the operation or facilitation of a "cruise to nowhere" must be assessed a civil penalty of not more than one thousand dollars for each violation, with an aggregate total not to exceed ten thousand dollars for a twenty-four period. The legislation provides that county and municipal governing bodies may adopt

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permit is valid in the operation of vehicles between six a.m. and midnight, rather than "during the daylight hours," as is currently provided. A permittee may not drive between midnight and six o'clock a.m. unless accompanied by the permittee's licensed parent or guardian. The bill provides that a beginner's permit is valid in the operation of certain scooters and cycles between six a.m. and six p.m., except that beginning on the day that daylight savings time goes into effect through the day that daylight saving time ends, the permittee may operate these certain scooters and cycles between six a.m. and eight p.m. The bill provides that a permittee may not operate a motorcycle, motor scooter, or light motor-driven cycle at any other time unless supervised by the permittee's motorcycle licensed parent or guardian. The bill also increases from ninety days to one hundred eighty days the period which a person must hold a beginner's permit before being eligible for full licensure.

The legislation provides for revisions to the conditional (currently known as "provisional") driver's license issued to eligible individuals that are at least fifteen years of age and less than sixteen years of age and the special restricted driver's license issued to eligible individuals that are at least sixteen years of age and less than seventeen years of age. The bill provides that in addition to current requirements, a driver must complete at least forty hours of driving practice, including at least ten hours of licensed parental- or guardian-supervised driving practice during darkness, in order to be issued a conditional (currently known as "provisional") driver's license or a special restricted driver's license. The holder of conditional driver's license or a special restricted license may not transport more than two passengers who are under twenty-one years of age unless accompanied by a licensed adult who is twenty-one years of age or older. This restriction does not apply when transporting family members, or students to or from school. In addition to current requirements, the bill also provides that a person must pass a specified driver's education course in order to be issued a special restricted driver's license. The bill also provides that for purposes of issuing a special restricted driver's license, the Department of Public Safety must accept a certificate of completion for a student who attends or is attending an out-of-state high school and passed a qualified driver's training course or program equivalent to an approved course or program in this State. In addition to current requirements, the bill also specifies that a person must satisfy the school attendance requirements imposed for the conditional license in order to be issued a special restricted driver's license. The bill also provides that a person while operating a motor vehicle under a conditional license or special restricted driver's license (currently this provision relates only to special restricted driver's license holders) who is convicted of a traffic offense (currently this provision applies only to point assessable offenses) or involved in an accident in which he was at fault shall have the removal of the restrictions postponed for twelve months and is not eligible to be issued a regular driver's license until one year from the date of the last traffic offense or accident in which he was at fault or until he is seventeen years of age. Currently, removal of the license holder's restrictions is postponed for six months during which period the licensee must be "free of any traffic convictions."

H. 3933 also provides that it is unlawful to transport a person under fifteen years of age in the open bed or open cargo area of a pickup truck or trailer. This provision

prepaid applications for the plate, or a deposit of four thousand dollars from the individual or organization seeking issuance of the plate. The deposit would be refundable once an equivalent amount of license plate fees is collected for that special plate, or would be retained by the Department if the equivalent amount is not collected within four years. The bill requires that the Department must approve a plan to market the plates, and if the Department receives less than three hundred biennial applications and renewals for this special plate, it shall not produce additional special license plates in that series. The fee for this special plate is the regular motor vehicle license fee and a special license fee of sixteen dollars. These funds would be distributed to the Department to defray the DMV's expenses of producing and administering the plates, and remaining funds must be designated for use by the South Carolina National Guard for homeland security.

STATUS: H.4652 (Act 236) and H.4432 (Act 218) were both approved by the House and the Senate and both bills have been signed by the Governor.

DRIVER'S LICENSES FOR FOREIGNERS (H.4670)

The House and Senate approved H.4670, a bill revising driver's license issuance/renewal for foreigners. Current law allows issuance or renewal of a driver's license to persons from other countries who are present in South Carolina on a student visa or on a work visa, or their dependents. This bill eliminates that provision and provides that for purposes of determining eligibility to obtain or renew a South Carolina driver's license, the term "resident of South Carolina" includes all persons authorized by the U.S. Department of Justice, the U.S. Immigration and Naturalization Service, or the U.S. Department of State to live, work, or study in this country on a temporary or permanent basis who present documents indicating their intent to live, work, or study in South Carolina. The bill provides that these persons are eligible to obtain or renew a driver's license. The bill also provides that a driver's license issued pursuant to these provisions to a person who is not a lawful permanent resident of this country shall expire on the later of the expiration date of the driver's license applicant's authorized period of stay in the United States or the expiration date of the driver's license applicant's employment authorization document. The bill further provides that in no event shall a driver's license issued pursuant to these provisions expire less than one year or more than five years from the date of its issue. Also, the bill provides that a person pending adjustment of status who presents appropriate documentation shall be granted a one year extension of his driver's license which is renewable annually.

STATUS: H.4670 was approved by both the House and the Senate and has been enrolled for ratification.

that, on a form promulgated in regulation by the department, the parent or legal guardian of the child from whom a blood sample was obtained, or the child when eighteen years of age or older, may direct the department to: (a) return a blood sample in its entirety and any test results not less than two years after the date of testing; (b) destroy a blood sample in a scientifically acceptable manner not less than two years after the date of the testing; or (c) store a blood sample at minus 20° centigrade but not release the blood sample for confidential, anonymous scientific study. A blood sample released for confidential, anonymous study must not contain information that may be used to determine the identity of the donor. A blood sample released may contain demographic or other statistical information. If scientific study identifies genetic information that may benefit the child, the department may notify confidentially the parent or legal guardian, or the child if eighteen years of age or older, of this information. Blood samples taken prior to the effective date of the act that have not been stored under the conditions prescribed in the legislation must be properly destroyed. The legislation revises penalties for violations, specifying that fines may not exceed fifty thousand dollars and imprisonment not more than three years.

STATUS: S.204 passed the General Assembly and was signed into law by the Governor on May 1, 2002 (Act 225).

POLITICAL SUBDIVISION'S AUTHORITY TO ESTABLISH A MINIMUM WAGE (H.3289)

The General Assembly passed H.3289, a bill providing conditions for minimum wages that may be established by political subdivisions such as a municipalities, counties, school districts, special purpose districts, or public service districts. The legislation provides that a political subdivision of this State may not establish, mandate, or otherwise require a minimum wage rate that exceeds the federal minimum wage rate set forth in the Fair Labor Standards Act. Also, a political subdivision of this State may not establish, mandate, or otherwise require a minimum wage rate related to employee wages that are exempt under the Fair Labor Standards Act. This provision does not limit the authority of political subdivisions to establish wage rates in contracts to which they are a party.

STATUS: Having passed the General Assembly, H.3289 became law without the signature of the Governor on May 15, 2002.

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